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10/066,415	02/01/2002	Johnny R. McElroy	23102	5082

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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/066,415

Applicant(s)

MCELROY, JOHNNY R.

Examiner

Thomas J. Brahan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
2. Claims 26-32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. In claim 26, line 10, the term "the elevated dock" lacks antecedent basis within the claim.
  - b. Claim 31 redundantly adds a ramp support assembly into the claimed combination of elements, as part G of claim 26 already provides a basis for this element. Should claim 31 read "said support element"? Is the lowering of the ramp in claim 31 the same method step as the lowering of the ramp assembly in part H of claim 26?
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:  
A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.  
  
Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.
5. Claims 1, 4-6, 9, 10, 14-20, and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Peek. Peek shows a livestock transport comprising:

- a loading floor (24; note that no structure is specified for this floor);
- a cargo floor (12) elevated above the loading floor;
- a ramp assembly hinge (22) attached proximate the cargo floor; and
- a ramp assembly (10) connected to the cargo floor and configured for pivotal movement about the ramp assembly hinge from a raised position to a lowered position in closer proximity with the loading floor, the ramp assembly having a ramp floor and a cleaning chute (the gap between the arc 58' and the hinge angle 48).

The gap forms an angle with the floor of ninety degrees, as recited in claims 4, 17, and 18. The ramp has raised floor ridges (21), as recited in claims 5 and 19, and a ramp lever (32), as recited in claims 6 and 20. A rigid divider curtain (lower gate 18) extends between the sidewalls of the transport and retracts (folds), as recited in claims 9 and 10. The chute is attached to the ramp assembly hinge, as recited in claim 16. The lower gate (18) can also be considered as the ramp support assembly of claim 25.

6. Claims 1-4, 11-18 and 23-25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Blodgett. Blodgett shows a transport comprising:

- a loading floor (21);
- a cargo floor (26) elevated above the loading floor;
- a ramp assembly hinge (between decks 26 and 28) attached proximate the cargo floor; and
- a ramp assembly (a track 40) connected to the cargo floor and configured for pivotal movement about the ramp assembly hinge from a raised position to a lowered position in closer proximity with the loading floor, the ramp assembly having a ramp floor and a cleaning chute (the open areas about tracks 40).

The intended use of the transport, as a livestock transport, is not given any patentable weight, as this limitation is found only in the preamble. Blodgett has all of the structural limitations found in the bodies of the claims. The gap is between the ramp floor and the hinge assembly, as recited in claim 2, and forms an angle with the floor of ninety degrees, as recited in claims 3, 4, 17, and 18. The ramp floor includes a second portion (42) attached by a hinge, as recited in claims 11 and 23, and a ramp support assembly, see figure 1, as recited in claims 12, 13, 24 and 25. The chute is attached to the ramp assembly hinge, as recited in claim 16.

7. Claims 1, 4, 6-8, 14, 15, 17, 18, and 20-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Voelzke. Voelzke shows a transport having a loading floor (20), a cargo floor (22) elevated above the loading floor, a ramp assembly hinge (48) attached proximate the cargo floor (note the term "proximate is broad, and a ramp assembly (34) connected to the cargo floor and configured for pivotal movement about the ramp assembly hinge from a raised position to a lowered position in closer proximity with the loading floor, the ramp assembly having a ramp floor and a cleaning chute (the gap between upper cargo floor and the ramp 34). The intended use of the transport, as a livestock transport, is not given any patentable weight, as this limitation is found only in the preamble. The gap forms an angle with the floor of ninety degrees, as recited in claims 4, 17, and 18. The ramp includes a remote controlled hydraulic cylinder (50) and lever (42) as recited in claims 6-8 and 20-22.

8. Claims 15-19 and 22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Forrest. Forrest shows an apparatus for moving livestock from a lower level (the ground) to an upper level (truck deck 14), the apparatus comprising:

- a ramp assembly hinge assembly (22) attached proximate the upper level (14); and

- a ramp assembly (16) connected to the ramp assembly hinge and configured for pivotal movement about the ramp assembly hinge from a raised position to a lowered position in closer proximity with the lower level, the ramp assembly having a ramp floor (30) and a cleaning chute (one of the gaps between the floor boards).

The ramp assembly is substantially rectangular and the cleaning chute is attached to the ramp assembly hinge (directly or indirectly) as recited in claim 16. The ramp floor and the chute form an angle not less than 90 degrees, as recited in claims 17 and 18. The floor boards of the ramps present raised transverse ridges, as recited in claim 19. The ramp is raised by remote control, as recited in claim 22.

9. Claims 15-17 and 20-22 are rejected under 35 U.S.C. § 102(b) as being anticipated by Wood. Wood shows an apparatus having a hinge assembly (the linkage shown in figure 4) and a ramp assembly (16) with a large open area or cleaning chute at the hinge assembly. The intended use of the apparatus, as a livestock transport, is not given any patentable weight, as this limitation is found only in the preamble. Wood has all of the structural limitations found in the bodies of the claims. The ramp assembly is substantially rectangular and the cleaning chute is attached at the ramp assembly hinge, as recited in claim

16. The ramp floor and the chute form an angle, as recited in claim 17. The ramp is raised by remote controlled cylinder with a lever, as recited in claims 20-22.

10. Claims 14-19 are rejected under 35 U.S.C. § 102(b) as being anticipated by Lloyd. Lloyd shows an apparatus having a hinge assembly (53) and a ramp assembly (40, 90) with cleaning chutes (120; see column 7, lines 26-32) at the hinge assembly. The intended use of the apparatus, as a livestock transport, is not given any patentable weight, as this limitation is found only in the preamble. The ramp assembly is substantially rectangular and the cleaning chute is attached at the ramp assembly hinge, as recited in claim 16. The ramp floor and the chutes forms angled profiles not less than ninety degrees, as recited in claims 17 and 18, as well as transverse ridges, as recited in claim 19.

11. Claims 15-17 and 23-25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Mann (cited by applicant). Mann shows an apparatus having a hinge assembly (19) and a ramp assembly (3,5) with a large open areas or cleaning chutes at the hinge assembly. The intended use of the apparatus, as a livestock transport, is not given any patentable weight, as this limitation is found only in the preamble. The ramp assembly is substantially rectangular and the cleaning chute is attached at the ramp assembly hinge, as recited in claim 16. The ramp floor and the chutes forms angles, as recited in claim 17. The ramp portion (3) is hinged to ramp portion (5) as recited in claim 23, and includes a ramp support (51) as recited in claims 24 and 25.

12. Claims 1, 4, 9, 10, and 15-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hinchliff in view of Lloyd. Hinchliff shows the basic claimed livestock vehicle but varies from the claims 29 by not having a cleaning chute in the ramp. Lloyd shows a similar loading ramp with cleaning chutes (120). It would have been obvious to one of ordinary skill in the art to modify the ramp of Hinchliff by providing it with slits, for ease of cleaning, as taught by Lloyd. Hinchliff has a divider curtain (26) extending between the sidewalls, as recited in claims 9 and 10.

13. Claims 26, 27, 31 and 32, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hinchliff, as applied above to claim 26, in view of Blodgett. Hinchliff shows the basic claimed livestock vehicle but varies from the claims by not having a ramp support assembly. Blodgett shows

a similar loading ramp with a folding ramp assembly which extends beyond the outer edge of the trailer and includes a support. It would have been obvious to one of ordinary skill in the art to modify the ramp of Hinchliff by providing it with extension and a support, as to have it extending outwardly of the trailer to increase the length of the ramp for ease of loading, as taught by Blodgett. Hinchliff has a divider curtain (26) extending between the sidewalls, as recited in claim 27.

14. Claim 29, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hinchliff, in view of Blodgett, as applied above to claim 26, in view of Lloyd. Hinchliff, as modified, shows the basic claimed livestock vehicle, but varies from claim 29 by not having a cleaning chute in the ramp. Lloyd shows a similar loading ramp with cleaning chutes (120). It would have been obvious to one of ordinary skill in the art to modify the ramp of Hinchliff by providing it with slits, for ease of cleaning, as taught by Lloyd.

15. Claim 30, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hinchliff in view of Blodgett, as applied above to claim 26, in view of Zeuner et al (cited by applicant). Hinchliff, as modified, shows the basic claimed livestock vehicle, but varies from claim 30 by not specifying that the ramp (28) is remote controlled. Zeuner shows similar transport vehicle ramps with remote controlled hydraulic cylinders. It would have been obvious to one of ordinary skill in the art to modify the ramp of Hinchliff by providing it with remote controlled cylinders, for ease of operating, as taught by Zeuner et al.

16. Fowler is cited as showing a transport with a ramp which can be used with a loading ramp (see figure 2) or without the loading ramp (see figure 3). Young and Doonan et al, Provenson, and Parry show related transports with ramps.

17. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

  
THOMAS J. BRAHAN  
P. EXAMINER